

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare:

THAT my residence, post office address and citizenship are as stated below next to my name.

THAT I believe I am the original, first and sole (if only one name is listed below) or an original, first and joint inventor (if plural inventors are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: PROBIOTIC/PREBIOTIC COMPOSITION AND DELIVERY METHOD, the specification of which:

☒ is attached hereto.

OR

☐ was filed on _____ as United States Application Number or PCT International Application Number _____, and was amended on _____ (if applicable).

THAT I do not know and do not believe that this invention was ever known or used in the United States of America before my or our invention or discovery thereof, or patented or described in any printed publication in any country before my or our invention or discovery thereof, for more than one year prior to this application.

THAT the invention was not in public use or on sale in the United States of America for more than one year prior to this application.

THAT this invention has not been patented or made the subject of an inventor's certificate issued before the date of the application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months before this application.

THAT I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

THAT I acknowledge the duty to disclose information that is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information that became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

THAT no application(s) for patent or inventor's certificate on this invention or discovery has been filed by me or my legal representatives or assigns in a country foreign to the United States of America more than 12 months prior hereto, unless identified here: _____

THAT I hereby claim foreign priority benefits under Title 35, United States Code §119 (a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date | Priority Claimed? | | Certified Copy Attached? | |
|---|---------|------------------------|----------------------|----|-----------------------------|----|
| | | | YES | NO | YES | NO |
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THAT I hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below.

| Application Number(s) | Filing Date |
|-----------------------|-------------|
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| | |

THAT I hereby claim the benefit under Title 35, United States Code §120 of any United States application(s), or §365(c) of any PCT international application designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. Parent Application Number | PCT Parent Number | Parent Filing Date | Parent Patent Number (If applicable) |
|-----------------------------------|-------------------|--------------------|---|
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| | | | |

And as a named inventor, I hereby appoint the following registered practitioners to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith and with the resulting patent, individually and collectively:

Squire, Sanders & Dempsey L.L.P.
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40 North Central Avenue, Suite 2700
Phoenix, Arizona 85004-4498

telephone number (602) 528-4000 (to whom all communications regarding the subject application are to be directed); and each practitioner thereof named below with Registration Numbers, and of the same address:

| | | | |
|-----------------------|-----------------|-----------------------|-----------------|
| William C. Steffin | Reg. No. 26,811 | Michael A. Lechter | Reg. No. 27,350 |
| David B. Abel | Reg. No. 32,394 | William R. Bachand | Reg. No. 34,980 |
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I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

1. Inventor's Signature [Signature]
Date February 3, 2001
Inventor's Name (typed) Woodrow C. Monte
First Middle Family Name
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